

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3296 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BANUBIBI WD/O NABIMIYA AMRUMIYA KHOKHAR

Versus

EXECUTIVE ENGINEER

Appearance:

MR GM AMIN for Petitioner

M/S TRIVEDI & GUPTA for Respondent No. 1

MR VIJAY H PATEL for Respondent No. 2

MR DA BAMBHANIA, Addl.G.P.for Respondent No. 3, 4 & 5

CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 27/06/97

ORAL JUDGEMENT

Rule. M/s.Trivedi & Gupta, learned Advocates for respondent no.1; Mr.Vijay H.Patel, learned Advocate for respondent no.2; and Mr.D.A.Bambhania, learned Addl.G.P. for respondents nos.3 to 5, respectively, waive the service of Rule.

The main grievance of the petitioner as to not finalising his pension case (family pension) is taken care of by order dated 19.6.1997. However, the order does not indicate by what date, the case will be finalised and the pension payment order will be issued.

The second grievance, as per the order at Annexure.L, page no.39, is no doubt, an ancillary grievance, but so far as the petitioner is concerned, is quite substantial.

The petitioner was given the benefit of family pension provisionally and thereafter it was felt that the benefit has been wrongly given and, therefore, the payment made under the sanctioning order, sought to be recovered.

Obviously, when the Department has accepted the case of the petitioner being entitled to family pension, there is no question of recovery.

Accordingly, for the aforesaid two remaining grievances, it is directed that, within four weeks from today, the respondent no.2 shall complete all formalities and within four weeks thereafter, the respondents nos.3 to 5 shall also complete all the necessary formalities. So far as the order of recovery is concerned, the same is hereby set aside. Rule is made absolute to the aforesaid extent only, with no order as to costs.

sreeram